

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MAXIE MCNABB,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:06cv664-MHT
)	
SANDERS LEAD COMPANY, INC.,)	
)	
Defendant.)	

**DEFENDANT’S BRIEF IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Defendant Sanders Lead Company, Inc. (“Sanders Lead”), by and through the undersigned counsel of record, and moves this Honorable Court to enter summary judgment in Defendant’s favor pursuant to Rule 56 of the *Federal Rules of Civil Procedure*. As grounds therefore, Sanders Lead submits the following Brief in Support of its Motion for Summary Judgment. Sanders Lead alleges that no genuine issues of material fact exist and Defendant is entitled to judgment as a matter of law. Accordingly, Sanders Lead states as follows:

I. INTRODUCTION

In his complaint, Plaintiff, Maxie McNabb, attempts to bring claims against Sanders Lead under “the Age Discrimination in Employment Act,” (ADEA) as amended, 29 U.S.C. § 621, et seq., 29 U.S.C. §§ 215 and 216, and 42 U.S.C. §2000e-3 (a) and a retaliation claim for Sanders Lead allegedly not rehiring him months after he was discharged. As shown below, however, Mr. McNabb cannot present the Court sufficient evidence to

support his claims against Sanders Lead. Consequently, Sanders Lead is entitled to summary judgment on each and every claim asserted against it by Mr. McNabb.

II STATEMENT OF FACTS

According to Plaintiff Maxie McNabb, he began working for Sanders Lead as a laborer in the Casting and Alloy Department in August of 1992. *See Plaintiff's Complaint, p. 2, ¶ 7.* Mr. McNabb remained a laborer for most of his career at Sanders Lead with the exception of a period of time in 1998 to 1999 when he worked in the laundry department. *See Exhibit 1 the Affidavit of Edgar Fannin, p. 1, ¶ 5.* At no time during his employment, was he ever under an employment contract.

Over the course of his employment, Mr. McNabb received several disciplinary warnings from his supervisors. On April 21, 1997, Mr. McNabb received a notice for extending break periods. *See attached exhibit 2.* On May 17, 1997, Mr. McNabb received a notice for an unexcused absence. *See attached exhibit 2.* On September 28, 1997, Mr. McNabb received another notice for an unexcused absence. *See attached exhibit 3.* On October 11 and October 22, Mr. McNabb received a notice for two other unexcused absences. *See attached exhibit 3.* On March 4, 1998, he received a notice for failure to see a required training film. *See attached exhibit 4.* On April 4, 1998, Mr. McNabb received a notice improperly doing his job that included a remark about the seriousness of this violation. *See attached exhibit 5.* On April 27, 1998, Mr. McNabb received a notice for an unexcused absence. *See attached exhibit 5.* On June 29, 1998, Mr. McNabb received a notice for an unexcused absence and was suspended for three days. *See attached exhibit 6.* On August 24, 1998, he received a warning for loitering during working

hours. *See attached exhibit 6.* On November 22, 1998, he received a warning for another unexcused absence. *See attached exhibit 7.* On November 27, 1998, he received another warning for an unexcused absence. *See attached exhibit 8.* On March 1, 1999 he received a warning for leaving his assigned work station without permission. *See attached exhibit 9.* On March 15, 1999 he received a warning for arriving late for his assigned shift. *See attached exhibit 9.* On September 4, 1999, he received a warning for excessive tardiness. *See attached exhibit 7.* On September 6, 1999, he received another warning for excessive tardiness. *See attached exhibit 8.* On January 21, 2000, Mr. McNabb received a notice for not calling in or coming in to work on the previous day. *See attached Exhibit 10.* On March 24, 2000, Mr. McNabb received another notice for not calling in or coming in to work on the previous day. *See attached Exhibit 11.* On June 18, 2000, Mr. McNabb received yet another notice for not calling in or coming in to work. *See attached Exhibit 11.* On November 27, 2000, he received a warning for tardiness. *See attached Exhibit 12.* On December 28, 2000, he received another warning for an unexcused absence. *See attached Exhibit 12.* On January 25, 2001 he received another warning for an unexcused absence. *See attached Exhibit 13.* On March 27, 2001, Mr. McNabb received a warning for insubordination and misconduct. *See attached Exhibit 13.* On March 29, 2001, Mr. McNabb received another warning for insubordination and misconduct. *See attached Exhibit 14.* On May 7, 2001, Mr. McNabb received another notice for not calling in or coming in to work on the previous day. *See attached Exhibit 14.* On July 26, 2001, Mr. McNabb received a warning for being late to work. *See attached Exhibit 15.* On August 4, 2001, Mr. McNabb received another warning for being

late to work. *See attached Exhibit 15.* On March 7, 2002, he received another warning for an unexcused absence. *See attached Exhibit 16.* On May 1, 2002, he received yet another warning for an unexcused absence and was suspended for three days without pay. *See attached Exhibit 17.* On May 31, 2002, Mr. McNabb received a warning for being late to work. *See attached Exhibit 18.* On October 15, 2002, he received another warning for an unexcused absence. *See attached Exhibit 18.* On November 19, 2002, Mr. McNabb received a warning for being late to work. *See attached Exhibit 19.* On December 11, 2002, Mr. McNabb received a warning for smoking in the bathroom and was sent home. *See attached Exhibit 19.* On November 19, 2002, Mr. McNabb received another warning for being late to work. *See attached Exhibit 20.* On May 5, 2003, he received another warning for an unexcused absence. *See attached Exhibit 20.* On May 15, 2003, Mr. McNabb received a warning for failing to go for his six month arsenic physical. *See attached Exhibit 21.* On May 18, 2003, Mr. McNabb received another warning for being late to work. *See attached Exhibit 21.* On July 6, 2003, he received another warning for an unexcused absence. *See attached Exhibit 22.* On August 22, 2003, Mr. McNabb received a warning for an unexcused absence and falsification of documents. *See attached Exhibit 22.* On September 25, 2003, he received another warning for an unexcused absence. *See attached exhibit 23.* On November 15, 2003, Mr. McNabb received a warning for not coming to work. *See attached exhibit 24.* On January 14, 2004, he received another warning for an unexcused absence. *See attached exhibit 24.* On February 8, 2004, Mr. McNabb received another warning for excessive tardiness. *See attached exhibit 25.* On April 10, 2004, he received another warning for an unexcused

absence. *See attached exhibit 25.* On May 13, 2004, he received yet another warning for an unexcused absence. *See attached exhibit 26.* On June 7, 2004 Mr. McNabb received another warning for unexcused absences on June 5 and June 6 of 2004. *See attached exhibit 26.* On July 8, 2004, he received a warning for being late. *See attached exhibit 27.* On July 18, 2004, Mr. McNabb received a notice for excessive absenteeism and was suspended for three days without pay. *See attached exhibit 28.* On October 7, 2004 Mr. McNabb received another notice for excessive absenteeism and was again suspended for three days without pay. *See attached exhibit 27.* On March 1, 2005, he received a notice for being absent without cause. A note concerning his bad attitude was made by Edgar Fannin. *See attached exhibit 29.* On March 30, 2005, he received a notice for misconduct and he was sent home. *See attached exhibit 29.* On May 2, 2005 Mr. McNabb received a notice for poor workmanship and negligence that could lead to a work stoppage. Another note was made regarding Mr. McNabb being a problem employee. *See attached exhibit 30.* In addition to the several warning notices given to Mr. McNabb, Edgar Fannin, the department head of casting and alloy, also held several discussions where he warned Mr. McNabb his behavior, work ethic, attendance, insubordination, and tardiness. *See Affidavit of Edgar Fannin, p. 3, ¶ 12.*

In January of 2006, management of Sanders Lead instituted a work force reduction in order to reduce expenses. *See Exhibit 31, Affidavit of Bart Sanders, p. 1, ¶ 3.* Employees who had discipline problems, poor work ethic, and/or unsatisfactory production were looked at first. *See Affidavit of Bart Sanders, p. 1, ¶ 4, and also Affidavit of Edgar Fannin, p. 1, ¶ 6.* Mr. McNabb's characteristics fit in all three categories and he was subsequently

discharged. See *Affidavit of Edgar Fannin*, p. 1, ¶ 5. Prior to the reduction, Edgar Fannin, Mr. McNabb's supervisor, approached Mr. McNabb and discussed the situation with him. Mr. McNabb was agreeable to the discharge due to the difficulty he had in performing the job. See *Affidavit of Edgar Fannin*, p. 2, ¶ 7. Additionally, three other laborers in Mr. McNabb's department were discharged. Of those employees, one was 19 and one was 21. See *Affidavit of Edgar Fannin*, p. 2, ¶ 8.

Mr. McNabb states in his complaint that he was terminated because of his age, simply because he claims he "always performed his duties and responsibilities in a satisfactory manner." See *Plaintiff's Complaint*, p. 2, ¶ 7. Mr. McNabb does not have any other evidence to support his claim he was terminated because of his age. On or about March 31, 2006, Mr. McNabb filed a complaint for age discrimination with the EEOC. See *Plaintiff's Complaint*, p. 3, ¶ 11. That complaint was dismissed by the EEOC on June 6, 2006 as the EEOC was unable to conclude that the information obtained established any violation of the statute. See *attached Exhibit 32, EEOC Dismissal and Notice of Rights*.

On May 24, 2006, Mr. McNabb visited Sam Kitchens, the personnel manager of Sanders Lead, and discussed the possibility of coming back to work. See *Exhibit 33, Affidavit of Sam Kitchens*, p. 2, ¶ 9. At that time, Sanders Lead was not hiring, and due to Mr. McNabb's previous work history, he would not likely have been hired even if Sanders Lead was hiring. See *Affidavit of Sam Kitchens*, p. 2, ¶ 12, and also *Affidavit of Edgar Fannin*, p. 2, ¶ 11. In Mr. McNabb's complaint, he alleges that he "reapplied for a position with Sanders Lead and was denied a position which [sic] Sanders Lead had represented was open." See *Plaintiff's Complaint*, p. 4, ¶ 18. The representation Mr. McNabb is

referring to is an advertisement placed in the Troy Messenger, Troy's local newspaper, that states Sanders Lead was seeking employees for the furnace department and the casting and alloy department. That ad was placed March 10, 2006, two months and two weeks prior to Mr. McNabb applying for a job. See *Affidavit of Sam Kitchens*, p. 2, ¶ 12. Mr. McNabb does not have any other evidence to support his claim he was retaliated against by Sanders Lead not rehiring him after he reapplied.

III STANDARD OF REVIEW

On a motion for summary judgment, the court must assess the proof in order to determine whether there is a genuine need for a trial. See *Mulhall v. Advance Security, Inc.*, 19 F.3d 586, 590 (11th Cir. 1994). Summary Judgment is appropriate only if the record shows that there is no genuine issue as to any material fact. See *id.*; Fed R. Civ. P. 56(c). "Material facts are those that might affect the outcome of the suit under governing law." *Id.* "All justifiable inferences about the facts must be resolved in favor of the non-movant." *Id.* (citations omitted). "Where the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no "genuine issue for trial." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986) (quoting *First Nat'l Bank of Arizona v. Cities Serv. Co.*, 391 U.S. 253, 289 (1968)).

Rule 56(c) of the *Federal Rules of Civil Procedure* "mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Beck v. City of Haleyville, Alabama*, 127 F. Supp. 2d 1197, 1205 (N.D. Ala 2001)(quoting *Celotex Corp. v.*

Catrett, 477 U.S. 317, 322-323, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)). “In such a situation, there can be no genuine issue as to any material fact, since the complete failure of proof concerning an essential element of the non-moving party’s case necessarily renders all other facts immaterial.” *Id.*

IV ARGUMENT AGAINST PLAINTIFF’S AGE DISCRIMINATION CLAIM

The plaintiff in an ADEA case “bears the ultimate burden of proving by a preponderance of the evidence that age was a determining factor in the employer’s decision to dismiss him.” *Zaben v. Air Product Chemicals, Inc.*, 129 F.3d 1453, 1457 (11th Cir. 1997)(citing *Clark v. Coats & Clark, Inc.* 990 F.2d 1217, 1226 (11th Cir. 1993)). To survive a motion for summary judgment, a plaintiff bringing an ADEA claim “must first establish a prima facie case of age discrimination” either “by presenting direct evidence of discriminatory intent, such as age-biased statements made by the decision-maker . . . [or] by presenting circumstantial evidence which complies with the test set forth by the Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).” *Id.* (other citations omitted).

If a plaintiff is successful in establishing a prima facie case, “the burden shifts to the employer to articulate a legitimate nondiscriminatory reason for the plaintiff’s discharge.” *Id.* (citing *Clark*, 990 F.2d at 1227). If the employer meets this burden of production, “the burden shifts back to the plaintiff to ‘introduce significantly probative evidence showing that the asserted reason is merely pretext for discrimination.’” *Id.* (quoting *Clark*, 990 F.2d at 1228).

In this case, Plaintiff has not presented any direct evidence of age discrimination.

A. Because Mr. McNabb cannot establish a prima facie case of age discrimination, Sanders Lead is entitled to summary judgment as a matter of law.

To establish a prima facie case of age discrimination, a plaintiff must establish four elements: (1) he was a member of the protected class; (2) he was qualified to do the job; (3) he was discharged; and (4) he was replaced by someone outside of the protected group. *Zaben*, 129 F.3d at 1457 (citing *Castle v. Sangamo Weston. Inc.*, 837 F.2d 1550, 1558 (11th Cir. 1980)). Plaintiff's case fails because he cannot establish the second and fourth elements.

Sanders Lead stipulates that Mr. McNabb was a member of the protected group and that he was discharged. However, Sanders Lead states that Mr. McNabb was no longer qualified to do the job. At one time, Mr. McNabb was qualified to do the job. However, over the years of his employment, Plaintiff developed discipline problems, poor work ethic, and unsatisfactory production. See *Affidavit of Edgar Fannin*, p. 1, ¶ 5.

Even if Plaintiff was qualified to do the job, he still cannot establish a prima facie case of age discrimination because he was not replaced by someone outside the protected group. In fact, Mr. McNabb was not replaced at all. Mr. McNabb's discharge was a result of a work force reduction enforced by the plant manager. See *Affidavit of Bart Sanders*, p.1, ¶ 5, and also p.2, ¶ 11.

B. Mr. McNabb cannot establish that Sanders Lead's legitimate, nondiscriminatory reason for his termination is pretextual.

Even assuming *arguendo*, that Plaintiff can establish a prima facie case of age discrimination, his claim is still subject to dismissal on summary judgment because he has no evidence that Sanders Lead's legitimate nondiscriminatory reasons for its decision to

terminate his employment are pretextual.

In order to survive summary judgment where, as here, the employer has proffered a legitimate nondiscriminatory reason for discharge, Plaintiff “must create a genuine issue of material fact as to whether the reasons advanced by [Sanders Lead] are pretextual.” *Holiness v. Moore-Handley, Inc.*, 114 F.Supp.2d 1176, 1182 (N.D. Ala. 1999)(citing *Bogle v. Orange County Bd. Of County Com’rs*, 162 F.3d 653, 658 (11th Cir. 1998)). “In other words, [Mr. McNabb] must provide sufficient evidence to allow a reasonable fact finder to conclude that the proffered reasons were not actually the motivation for his discharge.” *Id.* (citing *Combs v. Plantation Patterns*, 106 F.3d 1519, 1538 (11th Cir. 1997) *cert denied* 522 U.S. 1045 (1998)). Mr. McNabb may do this : “(1) by showing that the legitimate nondiscriminatory reasons should not be believed; or (2) by showing that, in light of all of the evidence, discriminatory reasons more likely motivated the decision than the proffered reasons.” *Id.* (citations omitted).

In evaluating an employer’s reason for terminating a plaintiff, courts note that “establishing pretext is not merely demonstrating that the employer made a mistake [in its assessment of an employee’s job performance or conduct], but that the employer did not give an honest account of its behavior .” *Id.* (citation omitted). “[An] employer may fire an employee for a good reason, a bad reason, a reason based on erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason.” *Holiness*, 114 F.Supp.2d at 1183 (quoting *Nix v. WLCY Radio/Rahll Communications*, 738 F.2d 1181, 1187 (11th Cir. 1984)).

The fact that an employee disagrees with a decision is irrelevant because an

employee's "perception of himself . . . is not relevant. It is the perception of the decision maker which is relevant." *Webb v. R&B Holding Company, Inc.*, 992 F.Supp. 1382, 1387 (S.D.Fla. 1998)(citing *Smith v. Flax*, 618 F.2d 1062, 1067 (4th Cir. 1980)). "The fact that an employee disagrees with an employer's evaluation of him does not prove pretext." *Id.* (citations omitted). Finally, "even if [a] [court agreed with [a plaintiff]]" regarding his behavior, courts do not "substitute [their] own business judgment for that of the employer." *Id.* (citing *Alphin v. Sears Roebuck & Co.*, 940 F.2d 1497, 1501 (11th Cir. 1991)).

1. Plaintiff has not presented sufficient evidence to dispute the basis for Sanders Lead's legitimate nondiscriminatory reasons for terminating him.

In *Holiness*, *supra*, the plaintiff claimed that he had been terminated because of his race in violation of Title VII of the Civil Rights Act 42 U.S.C. §2000e et seq. The defendant-employer asserted that it terminated the plaintiff, in part, because of the customer and co-worker complaints about the plaintiff. In support of his claim that the proffered reason was pretextual, the plaintiff offered his own statement that "he called the vendors with whom he dealt on a regular basis and they allegedly told him that they were satisfied with him." *Id.* at 1182. However the plaintiff failed to offer "substantial evidence indicating that [the defendant] did not actually receive complaints about him or that [the defendant] did not base its employment decision on such complaints . . ." *Id.* Instead, the plaintiff merely submitted "his assertions of his own good performance . . . [which were] insufficient to show that [the defendant's] proffered reasons [were] pretextual." *Id.* (citing *Holifield v. Reno*, 115 F.3d 1555, 1565 (11th Cir. 1997)). Accordingly, the court concluded that summary judgment for the defendant-employer was appropriate.

Similarly, in *Webb, supra*, the employer asserted that it had discharged the plaintiff based on her insubordination as demonstrated by several complaints the employer received from customers and co-workers. *Webb*, 992 F.Supp. At 1387. The plaintiff did not dispute that the complaints were made, but claimed that the underlying contentions of the complaints, such as that she acted in a rude manner, were untrue. The court stated that this was insufficient to establish pretext, because it was nothing more than the “plaintiff’s perception of [herself]” which “is not relevant.” *Id.* Therefore summary judgment was awarded to the employer. *Id.*

In this case Sanders Lead discharged Mr. McNabb as part of a work force reduction for the following reasons: (1) discipline problems (2) poor work ethic and (3) unsatisfactory production. See *Affidavit of Edgar Fannin*, p. 1, ¶ 5. Mr. McNabb has only offered a statement in his complaint that “[he] always performed his duties and responsibilities in a satisfactory manner.” See *Plaintiff’s Complaint*, p. 2, ¶ 7. That statement is nothing more than “plaintiff’s perception of [himself]” which “is not relevant.” *Webb*, 992 F.Supp. At 1387. Thus Mr. McNabb cannot dispute his discipline problems, his poor work ethic and his unsatisfactory production and therefore has absolutely no evidence that Sanders Lead’s legitimate nondiscriminatory reasons for his discharge were pretextual.

Sanders Lead has come forward with legitimate nondiscriminatory reasons for Mr. McNabb’s discharge supported by sworn declarations. Mr. McNabb has no evidence to dispute the facts contained in the declarations concerning the discipline problems, poor work ethic and unsatisfactory production that led to his discharge. Accordingly, Mr. McNabb has no evidence of pretext and summary judgment should be awarded in favor

of Sanders Lead.

2. All of the evidence supports the fact that Sanders Lead's decision to discharge Mr. McNabb was based on legitimate nondiscriminatory reasons.

Mr. McNabb has presented no relevant evidence to dispute the fact that he developed discipline problems, poor work ethic and unsatisfactory production during his employment at Sanders Lead. Mr. McNabb also cannot establish that in light of all the evidence, discriminatory reasons more likely motivated the decision to discharge him than Sanders Lead's proffered reasons. Indeed, all of the evidence in this case firmly supports Sanders Lead's position.

First, there has been no evidence presented that Sanders Lead ever made any specific remarks or comments about Mr. McNabb's age. Further, Mr. McNabb cannot dispute the fact that Sanders Lead was aware he was over 40 years of age when they hired him on September 8, 1992 and rehired him on November 16, 1992. Mr. McNabb's date of birth is August 30, 1951. *See attached exhibit 34, Mr. McNabb's Employment Eligibility Verification Form.* Mr. McNabb was hired on September 8, 1992 by Sanders Lead. *See attached exhibit 35.* Mr. McNabb quit working at Sanders Lead on October 15, 1992. *See attached exhibit 36.* Sanders Lead rehired Mr. McNabb on November 16, 1992. *See attached exhibit 37.* Mr. McNabb was subsequently discharged in January 2006. At both times of hire, Mr. McNabb was 41 years of age. Mr. McNabb was subsequently discharged in January 2006 by Bart Sanders, Sam Kitchens and Edgar Fannin. The fact that Sanders Lead hired and fired Plaintiff with full knowledge of his status as a member of the protected class cuts against any claim that age discrimination played

a role in Mr. McNabb's termination. See *Kossow v. St. Thomas University Inc.*, 42 F.Supp.2d 1312, 1316 (S.D.Fla. 1999); see also *Proud v. Stone*, 945 F.2d 796,797 (4th Cir. 1991); *Brown v. CSC Logic, Inc.*, 82 F.3d 651, 658 (5th Cir. 1996); *EEOC v. Our Lady of Resurrection Med. Ctr.*, 77 F.3d 145, 152 (7th Cir. 1996); *Lowe v. J.B. Hunt Transport, Inc.*, 963 F.2d 173, 174-175 (8th Cir. 1992); *Bradley v. Harcourt Brace and Co.*, 104 F.3d 267, 270-71 (9th Cir. 1996). Additionally, Mr. McNabb was one of numerous employees at Sanders Lead. Of those employees, several are over the age of 40 presently and at the time they were hired, as Mr. McNabb was. See *Affidavit of Sam Kitchens*, p. 2, ¶ 11.

Further, in Mr. McNabb's complaint, he states that "[u]pon information and belief, Sanders Lead continued to hire younger less qualified applicants." See *Plaintiff's Complaint*, p. 3, ¶ 13. There has been no evidence presented by the Plaintiff at any time to support this contention. The only evidence presented of Sanders Lead attempting to hire anyone, let alone a younger employee to replace Mr. McNabb, is a classified ad placed in the local newspaper on March 10, 2006 that stated the company was hiring employees for the furnace department and the casting and alloy department. As stated previously, one element Mr. McNabb must prove in an ADEA action is that he was replaced by someone outside of the protected group. *Zaben*, 129 F.3d at 1457 (citing *Castle v. Sangamo Weston. Inc.*, 837 F.2d 1550, 1558 (11th Cir. 1980)). The advertisement only shows that Sanders Lead was looking to hire employees more than two months after a work force reduction. There is no evidence that infers Sanders Lead was looking for replacement employees for the workers that were discharged during the work force reduction. Instead, Sanders Lead was looking for replacement employees for

employees who had left the company after the work force reduction. See *Affidavit of Bart Sanders*, p. 2, ¶ 11 and also see *Affidavit of Sam Kitchens*, p. 1, ¶ 8.

All of the facts in this case support Sanders Lead's position that it terminated Mr. McNabb for legitimate nondiscriminatory reasons. Plaintiff has no evidence that these reasons were false or that the real reason was unlawful age discrimination. Accordingly, Sanders Lead is entitled to a summary judgment as a matter of law.

V ARGUMENT AGAINST PLAINTIFF'S RETALIATION CLAIM

In order to establish a *prima facie* case for retaliation under Title VII, Mr. McNabb must show: "that (1) [he] engaged in ... statutorily protected expression; (2) [he] suffered an adverse employment action; and (3) there is a causal [connection] between the two events." *Shannon v. Bellsouth Telecommunications, Inc.*, 292 F.3d 712, 715 (11th Cir.2002) (citation omitted). Once "a plaintiff makes out a *prima facie* case of retaliation, the burden shifts to the defendant to produce legitimate reasons for the adverse employment action." *Id.* (citation omitted). "If the defendant does so, the plaintiff must show that the reasons the defendant gave were pretextual." *Id.*

In this case, Mr. McNabb has not presented sufficient evidence to establish a *prima facie* case of retaliation.

A. Because Mr. McNabb cannot establish a *prima facie* case of retaliation, Sanders Lead is entitled to summary judgment as a matter of law.

To establish a *prima facie* case of retaliation, a plaintiff must establish three elements: (1) he engaged in statutorily protected expression; (2) he suffered adverse employment action; and (3) there was a causal connection between the two. *Shannon v.*

Bellsouth Telecommunications, Inc., 292 F.3d 712, 715 (11th Cir.2002) (citation omitted).

Plaintiff's case fails because he cannot establish the third element.

Sanders Lead stipulates that Mr. McNabb engaged in statutorily protected expression and that not rehiring him in May of 2006 was an adverse employment action. However, Mr. McNabb has not provided any evidence that there was any connection to the two. At the time Mr. McNabb applied for a position, Sanders Lead was not hiring. Further, even if Sanders Lead was hiring, it is unlikely that Mr. McNabb would have been considered due to his past work performance which included discipline problems, poor work ethic and unsatisfactory production. Accordingly, Mr. McNabb has no evidence of a causal connection between his filing of a complaint with the EEOC and Sanders Lead not rehiring him. Therefore, because Mr. McNabb cannot establish a prima facie case of retaliation summary judgment should be awarded in favor of Sanders Lead.

B. Mr. McNabb cannot establish that Sanders Lead's legitimate, nondiscriminatory reason for not rehiring him is pretextual.

Again, even assuming *arguendo*, that Plaintiff can establish a prima facie case of retaliation, his claim is still subject to dismissal on summary judgment because he has no evidence that Sanders Lead's legitimate nondiscriminatory reasons for its decision to not rehire him are pretextual.

An employer need only produce a neutral reason for not rehiring a previously terminated employee. *Smith v. State of Georgia*, 749 F.2d 683, 687 (11th Cir. 1985). Mr. McNabb applied for employment at Sanders Lead on May 24, 2006. At that time, Sanders Lead was not hiring people in the casting and alloy department.

Additionally, Mr. McNabb was discharged in January of 2006 as part of a work force

reduction mandated by the management of Sanders Lead. See *Affidavit of Bart Sanders*, p. 2, ¶ 8 and also see *Affidavit of Edgar Fannin*, p. 1, ¶ 7. Sanders Lead discharged Mr. McNabb as part of the work force reduction for the following reasons: (1) discipline problems (2) poor work ethic and (3) unsatisfactory production. see *Affidavit of Edgar Fannin*, p. 2, ¶ 7. Mr. McNabb has only offered a statement in his complaint that “[he] always performed his duties and responsibilities in a satisfactory manner.” See *Plaintiff’s Complaint*, p. 2, ¶ 7. That statement is nothing more than “plaintiff’s perception of [himself]” which “is not relevant.” *Webb v. R&B Holding Company, Inc.*, 992 F.Supp. 1382, 1387 (S.D.Fla. 1998)(citing *Smith v. Flax*, 618 F.2d 1062, 1067 (4th Cir. 1980)). Thus Mr. McNabb cannot dispute that he had discipline problems, a poor work ethic and unsatisfactory production towards the latter part of his employment at Sanders Lead.

Those same reasons for Mr. McNabb’s discharge, together with the fact that Sanders Lead was not hiring at the time Mr. McNabb applied for employment are the reasons Mr. McNabb was not rehired. See *Affidavit of Sam Kitchens*, p. 2, ¶ 12 and also see *Affidavit of Edgar Fannin*, p. 2, ¶ 11. Therefore, Mr. McNabb has absolutely no evidence that Sanders Lead’s legitimate nondiscriminatory reasons for not rehiring him are pretextual.

Sanders Lead has come forward with legitimate nondiscriminatory reasons for Mr. McNabb’s not being rehired supported by sworn declarations. Mr. McNabb has no evidence to dispute the facts contained in the declarations concerning the discipline problems, poor work ethic and unsatisfactory production that led to his original discharge. Further, Mr. McNabb has no evidence to dispute the fact contained in Sam Kitchens’

declaration that at the time Mr. McNabb sought to be rehired, Sanders Lead was not hiring anyone. Accordingly, Mr. McNabb has no evidence of pretext and summary judgment should be awarded in favor of Sanders Lead as to the retaliation claim.

C. All of the evidence supports the fact that Sanders Lead's decision to discharge Mr. McNabb was based on legitimate nondiscriminatory reasons.

The only evidence Mr. McNabb has produced since the beginning of this case that Sanders Lead was even hiring employees for the casting and alloy department is an advertisement placed in the Troy Messenger, Troy's local newspaper, that states Sanders Lead was seeking employees for the furnace department and the casting and alloy department. That ad was placed March 10, 2006, two months and two weeks prior to Mr. McNabb applying for a job. *See Affidavit of Sam Kitchens, p. 2, ¶ 9.* As stated previously, at the time Mr. McNabb applied for a position, Sanders Lead was not hiring. Further, even if Sanders Lead was hiring, it is unlikely that Mr. McNabb would have been considered due to his past work performance. *See Affidavit of Edgar Fannin, p. 2, ¶ 11.* Mr. McNabb does not have any other evidence to support his claim he was retaliated against by Sanders Lead not rehiring him after he reapplied.

Mr. McNabb has presented no relevant evidence to dispute the fact that he developed discipline problems, poor work ethic and unsatisfactory production during his employment at Sanders Lead. Mr. McNabb also cannot establish that in light of all the evidence, discriminatory reasons more likely motivated the decision to not rehire him than Sanders Lead's proffered reasons. Indeed, all of the evidence in this case firmly supports Sanders Lead's position.

All of the facts in this case support Sanders Lead's position that it did not rehire Mr. McNabb for legitimate nondiscriminatory reasons. Plaintiff has no evidence that these reasons were false or that the real reason was unlawful retaliation. Accordingly, Sanders Lead is entitled to a summary judgment as a matter of law.

VI CONCLUSION

Based upon the foregoing, it is evident Mr. McNabb cannot carry his burden of proving the essential elements to each and every cause of action asserted against Sanders Lead in his Complaint. Therefore, Sanders Lead respectfully requests this Honorable Court enter summary judgment in its favor as to all claims asserted against it by Mr. McNabb.

WHEREFORE, ABOVE-PREMISES CONSIDERED, because Plaintiff cannot present sufficient evidence to support his claims for age discrimination or retaliation, Defendant respectfully requests this Honorable Court grant summary judgment as to each and every claim asserted against Defendant by Plaintiff in this matter and that it dismiss Plaintiff's claims with prejudice.

Respectfully submitted this the 25th day of May, 2007.

s/ N.J. Cervera
N.J. Cervera (CER001)

s/ Frank P. Ralph
Frank P. Ralph (RAL002)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by placing the same in the U.S. Mail, postage prepaid and properly addressed to:

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319 17th Street North
Birmingham, Alabama 35203

this the 25th day of May, 2007.

s/ N.J. Cervera _____
OF COUNSEL

STATE OF ALABAMA)
COUNTY OF PIKE)

AFFIDAVIT OF EDGAR FANNIN

Personally appeared before me, the undersigned attesting officer duly authorized by law to administer oaths, Edgar Fannin, who is known to me, after being first duly sworn, deposes and under oath states as follows:

1. My name is Edgar Fannin. I am a resident and citizen of the State of Alabama, and I am over twenty-one years of age. I have personal knowledge of the facts contained in this affidavit.
2. I have been employed at Sanders Lead Company, Inc. for over 28 years and for the last 14, I have been employed as the department supervisor for the casting and alloy department at Sanders Lead Company, Inc.
3. As department supervisor, I am in charge of overseeing all personnel, their production and the day to day operations in the casting and alloy department.
4. I personally know Mr. Maxie McNabb and have personal knowledge of the events surrounding his termination.
5. I have been the department head for Mr. McNabb's department for over 14 years. Over time, Mr. McNabb's work ethic lessened and his discipline problem grew. Also, in the months proceeding his discharge, his work production sank to an unsatisfactory level.
6. In late December of 2005, Mr. Bart Sanders, our plant manager, instructed me to implement a work force reduction in my department. He told me to look at employees who were not meeting production, had a poor work ethic

or had discipline problems.

7. I discharged four employees from the casting and alloy department. Mr. McNabb was one of them. He displayed all three characteristics described by my plant manager. I even discussed the discharge with Mr. McNabb before it happened and he was in agreement, stating that the job was just getting too difficult for him.
8. Along with Mr. McNabb, three other employees were discharged as part of the work force reduction. Their ages were 19, 24 and 41 at the time of their discharge. They were selected for the same reasons as Mr. McNabb. In my opinion, at the time of their discharge, they all had poor work ethic, disciplinary problems or unsatisfactory production.
9. Maxie McNabb's employment was terminated as part of a work force reduction plan implemented by the company. He was selected because he had poor work ethic, poor production and discipline problems.
10. Mr. McNabb was not terminated because of his age. Mr. McNabb's age played no part whatsoever in the decision to terminate his employment.
11. I was unaware that Mr. McNabb filed an application to be rehired. At the time he filed the application, the casting and alloy department was at full capacity. However, had I known he was seeking to be rehired and we had open positions, I would not have recommended him for rehire due to the poor work ethic, unsatisfactory production and discipline problems he developed in the latter stages of his employment, along with his admission to me that the reason for his problems was the difficulty of the work.

12. In addition to the warning notices contained in Mr. McNabb's personnel file, I have had numerous discussions with him concerning the same matters over the course of his employment. These became more numerous in the last two years of his employment.
13. Sanders Lead Company, Inc. does not discriminate in anyway whatsoever. Any form of discrimination including, but not limited to, race, color, sex religion, national origin, age, physical or mental disability, or veteran status is not tolerated. Mr. McNabb was not discriminated against because of his age.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of May, 2007.



Edgar Fannin, Affiant

STATE OF ALABAMA)
COUNTY OF PIKE)

Before me, the undersigned authority, in and for said State and County, personally appeared Edgar Fannin, who being by me first duly sworn, deposes and says that the facts alleged in the foregoing affidavit are true and correct to the best of his knowledge and belief.

Sworn to and subscribed to before me this 23rd day of May, 2007



Notary Public
My Commission Expires: 9-28-2010



SANDERS LEAD COMPANY**EXHIBIT
2****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McNEER

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc. ABSENT - no call in

Remarks MAXIE knows that HE must call in and present acceptable documents to be excused

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written Warning for time

Date 5-17-97

Dept. Head Life Guard
M. McNeer

Signature of Recipient

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McNEER

This is to notify you of disobedience to Company rules ☐ Inefficiency ☐ Neglect ☐

or etc. _____

Remarks EXTENDING BREAK PERIODS

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty WARNING

Date 4-21-97

Dept. Head C.P.

Signature of Recipient

10:45-11:30
BREAK TIME IS
11:00-11:30

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McWABB

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☐

or etc. _____

Remarks UNEXCUSED ABSENT

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty _____

Date 9-28-97 Dept. Head C.P. BEAN

Signature of Recipient Maxie McWabb

SANDERS LEAD COMPANY

cc: Jim

OCT 23 1997

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McWABB

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☐

or etc. _____

Remarks CONTINUAL UNEXCUSED ABSENT

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty _____

Date 10-11-97 Dept. Head C.P. BEAN

10-22-97

Signature of Recipient Maxie McWabb

SANDERS LEAD COMPANY**EXHIBIT**
4**WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. _____ Name Maxie M. AbbottThis is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☐or etc. Failure to see Required training film

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written WarningDate 3-4-98 Dept. Head Mitch JonesSignature of Recipient Maxie M. Abbott

SANDERS LEAD COMPANY**EXHIBIT****5****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McNABB

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc. Absent without sufficient cause

Remarks Maxie knows that he is to call in and that he has been to verify an excused absence. This is the way it must be

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty written warning

Date 4-27-98

Dept. Head Mr. G...

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

*A Very Serious
SAFETY Violation.
They all know
Better.*

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McNABB

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☐

or etc. _____

Remarks WARNING FOR Bulldozing Pot 4 + Adding Whole Bags

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty WARNING

Date 4-4-98

Dept. Head C.P. BEAN

Signature of Recipient MAXIE McNABB

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. loitering during working hours.

Remarks _____

Offense ☒ 1st ☒ 2nd ☐ 3rd Penalty Written Warning

Date 8-24-98 Dept. Head _____

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc. Absence without notification has increased

Remarks Maxie's Attendance is starting to look bad

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty 2 Day Suspension

Date 6-29-98 Dept. Head M/G

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY

EXHIBIT

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WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE M^cWABB

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc. _____

Remarks UNEXCUSED ABSENT

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty WARNING

Date 11-22-98 Dept. Head C.P. BEAR

Signature of Recipient K. Martin McNeill

Signature of Recipient _____

Date 4 Sep 1999

Offense ☐ 1st ☐ 2nd ☒ 3rd

Remarks Excessive Tardiness - Arriving late

or etc. _____

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

No. 1751 Name Maxie McWabb

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

WARNING NOTICE TO EMPLOYEE

SANDERS LEAD COMPANY

SANDERS LEAD COMPANY

EXHIBIT

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WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE McNABBThis is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc. _____

Remarks UNEXCUSED AbsentOffense ☒ 1st ☒ 2nd ☒ 3rd Penalty WARNINGDate 11-27-98 Dept. Head C.P. BEARSignature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. _____

Remarks Excessive TardinessOffense ☐ 1st ☐ 2nd ☒ 3rd Penalty 3 Days OffDate 6 Sep 1999 Dept. Head Shane L. FordDue Back 12 Sep 1999Signature of Recipient Maxie McNabb

Signature of Recipient

Dept. Head

Date

Offense

☒ 1st☒ 2nd☐ 3rd

Penalty

Remarks

or etc.

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☐

No.

Name

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR**WARNING NOTICE TO EMPLOYEE****SANDERS LEAD COMPANY****SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie M^e NabbThis is to notify you of disobedience to Company rules ☐ Inefficiency ☒ Neglect ☐

or etc. _____

Remarks Arriving Late For Assigned ShiftOn 14 Mar 1999Offense ☒ 1st ☒ 2nd ☐ 3rd Penalty _____Date 15 Mar 1999Supv.
Dept. Head

Signature of Recipient

EXHIBIT
10

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEEWHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McHaleThis is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc.

Remarks For not calling in or coming to work on 1-20-00

Offense

☒ 1st☐ 2nd☐ 3rd

Penalty

Written warning

Date

1-21-00

Dept. Head

Roy C. Blair

Signature of Recipient

Maxie McHale

SANDERS LEAD COMPANY**EXHIBIT****11****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒

or etc. (6-18-00) For not calling in or coming to work.

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty _____

Date 6-20-00 Dept. Head John Murdix

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name maxie Mc Nabbe

This is to notify you of disobedience to Company rules ☐ Inefficiency ☐ Neglect ☐

or etc. For not calling in or coming

Remarks to work on 3-23-00.

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written warning

Date 3-24-00 Dept. Head Roy C. Blair

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☒or etc. For not coming to work 12-27-00 and not bringing a doctorsRemarks excuseOffense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written WarningDate 12-28-00 Dept. Head John M. MordixSignature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Coming to work late, needs to come to work on time.

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written WarningDate 11-27-00 Dept. Head John M. MordixSignature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**EXHIBIT**
13**WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie Mc Nabbs

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Misconduct, Insubordination, Mr. McNabb has an attitude.

Remarks problem he needs to resolve quick. Has a problem following instructions.

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final Warning / Sent Home

Date 3-27-01 Dept. Head John M. [Signature]

Signature of Recipient Maxie Mc Nabbs

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie M'Nabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. AB.

Remarks IF you expect to keep your job on casting, you had better come to work.

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Written Warning

Date 1-25-01 Dept. Head [Signature]

Signature of Recipient Maxie M'Nabb

SANDERS LEAD COMPANY**EXHIBIT
14****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. For not calling or coming to work on 5-6-01.

Remarks _____

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final Warning/3 days off without pay. Return on 5-12-01Date 5-7-01Dept. Head John MurphySignature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name MAXIE M'NABBThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. AFTER your latest warning For misconduct,Remarks insubordination, and attitude I will warn you
one more of these and I will Fire you.Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty only warningDate 3/29/01Dept. Head JFSignature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**EXHIBIT
15****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. _____ Name maxie m^e nabb

This is to notify you of disobedience to Company rules ☐ Inefficiency ☐ Neglect ☐
or etc. late for work

Remarks _____

Offense ☐ 1st ☒ 2nd ☐ 3rd Penalty written warning

Date 8-4-07 Dept. Head mitch jones

Signature of Recipient Maxie M. Nabb

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. _____ Name maxie m^e nabb

This is to notify you of disobedience to Company rules ☐ Inefficiency ☐ Neglect ☐
or etc. late for work

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty written warning

Date 7-26-07 Dept. Head mitch jones

Signature of Recipient Maxie M. Nabb

EXHIBIT
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SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEEWHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. 1718 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Absent without notice on 3-6-02

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written WarningDate 3-7-02 Dept. Head John MurdickSignature of Recipient Maxie McNabb

EXHIBIT
17**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Marie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Absent without notice

Remarks _____

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty 3 days off without payDate 5-10-02Dept. Head John MundySignature of Recipient M. McNabb

SANDERS LEAD COMPANY**EXHIBIT**
18**WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Absent without a valid doctors excuse on 10-14-02.

Remarks _____

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final WarningDate 10-15-02 Dept. Head John MundaySignature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. For being late for work on 5-28-02

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written WarningDate 5-31-02 Dept. Head John MundaySignature of Recipient Maxie McNabb

SANDERS LEAD COMPANYEXHIBIT
19**WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Smoking in bathroom, caught by security guard.Remarks Obeied the order of the security guard.Offense ☐ 1st ☐ 2nd ☐ 3rd Penalty Sent HomeDate 12-11-02 Dept. Head John M. WebbSignature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. _____ Name Maxie m^c NabbThis is to notify you of disobedience to Company rules ☐ Inefficiency ☐ Neglect ☐or etc. late for work

Remarks _____

Offense ☐ 1st ☒ 2nd ☐ 3rd Penalty Written WarningDate 11-19-02 Dept. Head Mitch JonesSignature of Recipient Maxie McNabb

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent without notice. 5-4-03

Remarks _____

Offense ☒ 1st ☒ 2nd ☐ 3rd Penalty Written Warning

Date 5-5-03 Dept. Head John M. [Signature]

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Tardiness

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written Warning

Date 5-18-03 Dept. Head John Munday

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name MAXIE M'NABB

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Failed to go for Six mo. Arsenic Phz

Remarks Will not be able to work if he misses this now phz.

Offense ☐ 1st ☐ 2nd ☒ 3rd Penalty _____

Date 5-15-03 Dept. Head John Munday

Signature of Recipient Maxie McNabb

New Date
May 28
8:00 AM

Don't miss
this one

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent without notice. Extending an approved leave of absence

Remarks without prior approval. "Intolerable offense." IF this behavior
doesn't end you will be "fired."

Offense ☒ 1st ☒ 2nd ☐ 3rd Penalty Written Warning

Date 7-6-03 Dept. Head John Munday

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent without notice on 8-16-03. Falsification of document to

Remarks be excused from work dated 8-17-03. For bring a false doctors excuse
8-17-03 to be excused from being absent 8-16-03. Next time you will be "FIRED."

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Only Warning

Date 8-22-03 Dept. Head John Munday

Signature of Recipient _____

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent on 9-24-03

Remarks _____

Offense ☒ 1st ☒ 2nd ☐ 3rd Penalty Written Warning

Date 9-25-03 Dept. Head John Murphy

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**EXHIBIT
24****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. _____ Name maxie mcnabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☐ Neglect ☐

or etc. Didn't come to work

Remarks _____

Offense ☐ 1st ☒ 2nd ☐ 3rd Penalty written warning

Date 11-15-03 Dept. Head match gone

SLC-KW-WN9-2002

Signature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent/ Needs to come to work and be on time.

Remarks "Next time 3 days off without pay"

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final Warning

Date 1-14-04 Dept. Head MA

SLC-KW-WN9-2002

Signature of Recipient Maxie McNabb

SANDERS LEAD COMPANY**EXHIBIT
25****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☐ Inefficiency ☐ Neglect ☒or etc. Late too much

Remarks _____

Offense ☒ 1st ☐ 2nd ☐ 3rd Penalty Written WarningDate 2-8-04 Dept. Head [Signature]

SLC-KW-WN9-2002

Signature of Recipient [Signature]**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Absent without a valid doctor's excuse on 4-5-04.Remarks Next time you will be suspended without pay.Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final WarningDate 4-10-04 Dept. Head [Signature]

SLC-KW-WN9-2002

Signature of Recipient [Signature]

SANDERS LEAD COMPANY**EXHIBIT
26****WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent on 6-5-04, 6-6-04.

Remarks _____

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final Warning

Date 6-7-04 Dept. Head John M. [Signature]

Signature of Recipient [Signature]

SLC-KW-WN9-2002

SANDERS LEAD COMPANY**WARNING NOTICE TO EMPLOYEE**

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Absent without notice on 5-12-04. Come to work if you want to

Remarks Keep your job.

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Final Warning

Date 5-13-04 Dept. Head John M. [Signature]

Signature of Recipient [Signature]

SLC-KW-WN9-2002

SANDERS LEAD COMPANY**EXHIBIT
27****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Late

Remarks _____

Offense ☒ 1st ☒ 2nd ☐ 3rd Penalty Written WarningDate 7-8-04 Dept. Head John M. Murrin

SLC-KW-WN9-2002

Signature of Recipient Maxie McNabb**SANDERS LEAD COMPANY****WARNING NOTICE TO EMPLOYEE**WHITE to EMPLOYEE
CANARY TO PERSONNEL
PINK to DEPT. SUPERVISORNo. 1751 Name Maxie McNabbThis is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒or etc. Excessive Absenteeism, Absent without notice onRemarks 10-6-04.Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty 3 day off/No PayDate 10-7-04 Dept. Head John M. Murrin

SLC-KW-WN9-2002

Signature of Recipient Maxie McNabb

EXHIBIT
28

SANDERS LEAD COMPANY

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie Mc Nabbs

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Excessive Absenteeism

Remarks _____

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty 3 days / No Pay

Date 7-18-04 Dept. Head John Sanders

Signature of Recipient Maxie Mc Nabbs

SLC-KW-WN9-2002

SANDERS LEAD COMPANY

EXHIBIT
29

WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Max M. Noble

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒
or etc. AB - 2-28-05

Remarks Dr said he could not work with
no restrictions & + max bid out

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty last warning
5 days next time then
Date 3-1-05 Dept. Head [Signature]

SLC-KW-WN9-2002

Signature of Recipient

Max M. Noble

SLC-KW-WN9-2002

Signature of Recipient

Max M. Noble

Dept. Head

Date

3-30-05

Offense

☒ 1st

☒ 2nd

☒ 3rd

Penalty

last warning

Remarks

or etc.

Microduct, Send Home

☒ Neglect

☒ Inefficiency

☒ Disobedience to Company rules

Name

1751

No.

Max M. Noble

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

WARNING NOTICE TO EMPLOYEE

SANDERS LEAD COMPANY

SANDERS LEAD COMPANY

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WARNING NOTICE TO EMPLOYEE

WHITE to EMPLOYEE
CANARY to PERSONNEL
PINK to DEPT. SUPERVISOR

No. 1751 Name Maxie McNabb

This is to notify you of disobedience to Company rules ☒ Inefficiency ☒ Neglect ☒

or etc. Poor workmanship, Negligence, that can possibly lead to work

Remarks stoppage or interruption of work. Allowing pigs to build up
under backend table, allow pigs to flip over and not turning them upright.

Offense ☒ 1st ☒ 2nd ☒ 3rd Penalty Only warning / 3 days off
No pay

Date 5-2-05

Dept. Head John McNabb

Signature of Recipient M. McNabb

SLC-KW-WN9-2002

*this man
is a problem
& has been
off*

STATE OF ALABAMA)
COUNTY OF PIKE)

AFFIDAVIT OF BART SANDERS

Personally appeared before me, the undersigned attesting officer duly authorized by law to administer oaths, Bart Sanders, who is known to me, after being first duly sworn, deposes and under oath states as follows:

1. My name is Bart Sanders. I am a resident and citizen of the State of Alabama, and I am over twenty-one years of age. I have personal knowledge of the facts contained in this affidavit.
2. I am employed as the Plant Manager at Sanders Lead Company, Inc. As Plant Manager, I am in charge of all physical operations for Sanders Lead.
3. In December of 2005, I implemented a work force reduction at the company.
4. I began the process by discussing with the supervisors that a work force reduction would be taking place. They were to choose employees who had poor work ethic, poor production or discipline problems to be discharged.
5. Edgar Fannin, the Department Head of Casting and Alloy, chose Maxie McNabb to be part of the work force reduction because he met all three criteria.
6. Along with Maxie McNabb, three other employees in the casting and alloy department were chosen for similar criteria.
7. I gave the go ahead and instructed Edgar Fannin to dismiss all four employees.
8. Maxie McNabb's employment was terminated as part of a work force reduction plan implemented by the company. He was selected because he

had poor work ethic, poor production and discipline problems.

9. Mr. McNabb was not terminated because of his age. Mr. McNabb's age played no part whatsoever in the decision to terminate his employment.
10. Approximately two months later, our work force had dropped to below acceptable limits. I instructed Sam Kitchens to place an advertisement with the Troy Messenger to recruit employees for the casting and alloy department and the furnace department.
11. These were not replacement employees for the employees discharged during the work force reduction, rather employees to replace those that had left or been terminated since the reduction.
12. Sam Kitchens followed through and we were back at acceptable employment capacity shortly thereafter.
13. Sanders Lead Company, Inc. does not discriminate in anyway whatsoever. Any form of discrimination including, but not limited to, race, color, sex religion, national origin, age, physical or mental disability, or veteran status is not tolerated.
14. Further, Sanders Lead Company, Inc. does not retaliate against employees who have filed complaints with the EEOC in any way whatsoever and no such retaliation took place against Mr. McNabb.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23 day of May, 2007.


Bart Sanders, Affiant

STATE OF ALABAMA)
COUNTY OF PIKE)

Before me, the undersigned authority, in and for said State and County, personally appeared Bart Sanders, who being by me first duly sworn, deposes and says that the facts alleged in the foregoing affidavit are true and correct to the best of his knowledge and belief.

Sworn to and subscribed to before me this 23rd day of May, 2007

Brenda B. Davis

Notary Public

My Commission Expires: 9-28-2010



DISMISSAL AND NOTICE OF RIGHTS

To: Maxie McNabb
109 Crowe Street
Troy, AL 36081

From: EEOC
1130 - 22nd Street, South
Suite 2000
Birmingham, AL 35205



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420 2006 01686

Jeanne Walker

(205) 212-2055

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

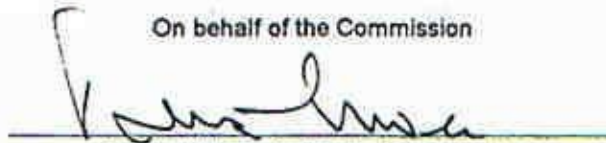
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


Bernice Williams-Kimbrough, District Director

06/06/2006
(Date Mailed)

Enclosure(s)

McNabb v. Sanders Lead
Company, Inc.
0011

STATE OF ALABAMA)
COUNTY OF PIKE)

AFFIDAVIT OF SAM KITCHENS

Personally appeared before me, the undersigned attesting officer duly authorized by law to administer oaths, Sam Kitchens, who is known to me, after being first duly sworn, deposes and under oath states as follows:

1. My name is Sam Kitchens. I am a resident and citizen of the State of Alabama, and I am over twenty-one years of age. I have personal knowledge of the facts contained in this affidavit.
2. I am employed as the personnel manager at Sanders Lead Company, Inc. and have been for approximately six years. As personnel manager, I am in charge of recruiting, managing, and training the employees of Sanders Lead Company, Inc.
3. One of the aspects of my job is to fill vacant positions at the company. How this works is prospective employees come in and fill out an application. If they are qualified and I have something available, I fill the position. A vacancy is filled on a first come, first serve basis. Accordingly, most vacant positions are filled very early in the week.
4. I personally know Mr. Maxie McNabb and have personal knowledge of the events surrounding his termination and him not being rehired.
5. In December of 2005, a work force reduction was discussed at the company and it was implemented in January of 2006. As part of that work force reduction, Maxie McNabb was discharged.
6. Maxie McNabb's employment was terminated as part of a work force

reduction plan implemented by the company. He was selected because he had poor work ethic, poor production and discipline problems.

7. Mr. McNabb was not terminated because of his age. Mr. McNabb's age played no part whatsoever in the decision to terminate his employment.
8. In March of 2006, I placed an advertisement with the Troy Messenger that ran in the March 10 edition seeking employees for the casting and alloy department and the furnace department. This was to replace a number of employees who had left after the work force reduction was instituted.
9. On May 24, 2006, Mr. Maxie McNabb came to my office and filled out an application for employment. He asked if I had any available positions and I told him we did not.
10. That was my only conversation with Mr. McNabb regarding him wishing to return to work.
11. Mr. McNabb not being rehired had nothing at all to do with his age, race, or the fact that he filed a complaint with the EEOC. Several employees at Sanders Lead Company, Inc. are over the age of 40 currently and at the time they were hired. Age is not a factor in determining whether someone is hired or discharged.
12. He was simply not rehired because we had no positions available at the time he applied.
13. Even if we had positions available at the time he applied, I would have had to discuss the rehire with the department head Edgar Fannin before any decision regarding him returning to work was made.

14. Sanders Lead Company, Inc. does not discriminate in anyway whatsoever. Any form of discrimination including, but not limited to, race, color, sex religion, national origin, age, physical or mental disability, or veteran status is not tolerated. Mr. McNabb was not discriminated against because of his age.

15. Further, Sanders Lead Company, Inc. does not retaliate against employees who have filed complaints with the EEOC in any way whatsoever and no such retaliation took place against Mr. McNabb.

I declare under penalty of perjury that the foregoing is true and correct.

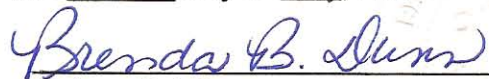
Executed this 23 day of May, 2007.


Sam Kitchens, Affiant

STATE OF ALABAMA)
COUNTY OF PIKE)

Before me, the undersigned authority, in and for said State and County, personally appeared Sam Kitchens, who being by me first duly sworn, deposes and says that the facts alleged in the foregoing affidavit are true and correct to the best of his knowledge and belief.

Sworn to and subscribed to before me this 23rd day of May, 2007


Notary Public
My Commission Expires: 9-28-2010

U.S. Department of Justice
Immigration and Naturalization ServiceOMB No. 1117-0117
Employment

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. ANTI-DISCRIMINATION NOTICE. It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last <u>McNabb</u>	First <u>MAKIE</u>	Middle Initial	Maiden Name
Address (Street Name and Number) <u>101 Arrowhead ALA DR</u>		ApL #	Date of Birth (month/day/year) <u>30 Aug 51</u>
City <u>TROY</u>	State <u>ALA</u>	Zip Code <u>36081</u>	Social Security # <u>416-70-4405</u>

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):
☒ A citizen or national of the United States
☐ A Lawful Permanent Resident (Alien # A)
☐ An alien authorized to work until 1/1
 (Alien # or Admission #)

Employee's Signature
MAKIE McNabb

Date (month/day/year)
8-8-92

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____	RECORDED & INDEXED	<u>DL</u>		<u>SSC</u>
Issuing authority: _____		<u>AL</u>		
Document #: _____		<u>6069043</u>		
Expiration Date (if any): <u>1/1</u>		<u>9/95</u>		<u>1/1</u>
Document #: _____				
Expiration Date (if any): <u>1/1</u>				

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) 1/1 and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative <u>J. L. Coughlin</u>	Print Name <u>J. L. Coughlin</u>	Title <u>Personnel Manager</u>
Business or Organization Name <u>Sanders Lead Co. and Plastics</u>	Address (Street Name and Number, City, State, Zip Code) <u>Sanders Road, Troy, AL 36081</u>	Date (month/day/year) <u>8 Sep 92</u>

Section 3. Updating and Reverification. To be completed and signed by employer

A. New Name (if applicable)	B. Date of tenure (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.	
Document Title: _____	Document #: _____
Expiration Date (if any): <u>1/1</u>	

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
--	-----------------------

CHANGE OF EMPLOYEE STATUS

EMPLOYEE'S NAME McC Nabby, Mavis E DEPARTMENT OR LOCATION C/A TIME CARD OR PAYROLL NUMBER 848492
LE LABOR CLASSIFICATION 135092 SHIFT 2 TODAY'S DATE 8/29/92

BE RATE CHANGE

PRESENT RATE 550 EFFECTIVE DATE OF ACTION 13 Sept 92
PERCENT RAISE _____
INCREASE AMOUNT _____ DATE OF LAST RAISE _____

NEW CLASSIFICATION

PLUS \$102 - ALW.

VACATION REQUEST

Date Vacation Starts _____ Vacation Ends _____
Pay For _____ Days Vacation _____ Issue Vacation _____
Other Information _____ Check on (Date) _____

ATTENDANCE RECORD

TOTAL DAYS OUT IN LAST SIX MONTHS _____
NUMBER OF DAYS EXCUSED _____
NUMBER OF DAYS SICK _____
NUMBER OF DAYS UNEXCUSED _____
NUMBER OF DAYS LATE _____
BLOOD LEAD _____
COMMENTS _____

Signature of Supr [Signature] Date 8/29/92
Approved _____ Title _____
Approved _____ Title _____
Approved _____ Title _____

EMPLOYMENT SEPARATION

SUSPENSION		REASON	
NUMBER OF DAYS	DATE SUSPENSION STARTS	DATE EMPLOYEE IS TO RETURN	

TERMINATION

TYPE ☐ Lay Off ☐ Fired
☐ Quit ☐ Death
Effective Date _____ Date _____
Gave Company Days Notice _____

REASON FOR TERMINATION

- ☐ Smoking in Prohibited Area
- ☐ Insubordination
- ☐ Horseplay
- ☐ Pay Dissatisfaction
- ☐ Refusal to Work
- ☐ Medical Recommendation
- ☐ Poor Workmanship
- ☐ Moving From Area
- ☐ Absent Without Notice
- ☐ Lack of Work
- ☐ Misconduct
- ☐ Company Relocation
- ☐ Extending Break Periods
- ☐ Company Reorganization
- ☐ Quitting Before Time Agreed
- ☐ Labor Dispute
- ☐ Failure to Report Injury
- ☐ Retirement
- ☐ Wage Garnishment
- ☐ Excessive Absenteeism
- ☐ Alcoholism
- ☐ Tardiness
- ☐ Found Better Job
- ☐ Other
- ☐ Looking for Another Job
- ☐ Other

EMPLOYMENT RECOMMENDATIONS

Attendance	Very Good	Average	Below Average	Poor
Attitude				
Job Knowledge				
Quality of Work				
Production Rate				
Leadership				
Decision Making				
Getting Along With Fellow Workers				
Eligible for Rehire This Job?	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
Other Position With Company	Yes <input type="checkbox"/>	No <input type="checkbox"/>		

Additional Comments:

CHANGE OF EMPLOYEE STATUS

NAME Maxie McNaughtDEPARTMENT
OR LOCATIONAdmTIME CARD OR
PAYROLL NUMBER1751

CLASSIFICATION

SHIFT 3rdTODAY'S DATE 10-15

PAGE RATE CHANGE

PRESENT RATE

EFFECTIVE DATE OF ACTION

PERCENT RAISE

INCREASE AMOUNT

DATE OF LAST RAISE

NEW RATE

NEW CLASSIFICATION

VACATION REQUEST

Date Vacation Starts

Vacation Ends

Pay For

Issue Vacation
Check on (Date)

Other Information

ATTENDANCE RECORD

TOTAL DAYS OUT IN LAST SIX MONTHS

NUMBER OF DAYS EXCUSED

NUMBER OF DAYS SICK

NUMBER OF DAYS UNEXCUSED

NUMBER OF DAYS LATE

BLOOD LEAD

COMMENTS

Signature of Supervisor Ray C. Blaw Date 10-15-92

Approved

Title

Date

Approved

Title

Date

EMPLOYMENT SEPARATION

SUSPENSION

NUMBER OF DAYS

DATE SUSPENSION
STARTSDATE EMPLOYEE
IS TO RETURN

REASON

TERMINATION

☐ Lay-Off☐ Fired☒ Quit☐ DeathEffective Date 10-15-92Gave Company
Days Notice 8

REASON FOR TERMINATION

EMPLOYMENT
RECOMMENDATIONSVery Good
Average
Below Average
Poor

Attendance

Attitude

Job Knowledge

Quality of Work

Production Rate

Leadership

Decision Making

Getting Along With
Fellow Workers

Eligible for Rehire This Job?

Yes ☐ No ☐

Other Position With Company

Yes ☐ No ☐Additional Comments: Maxie is quitting because
he does not like the work.

e h i R e
CHANGE OF EMPLOYEE STATUSEmployee's NAME Maxie Mc NabbsDEPARTMENT OR LOCATION H1167

TIME CARD OR PAYROLL NUMBER

CLASSIFICATION

SHIFT 1STTODAY'S DATE 11-16-92

WAGE RATE CHANGE

PRESENT RATE 5.50

EFFECTIVE DATE OF ACTION

PERCENT RAISE

11-17-92

INCREASE AMOUNT

DATE OF LAST RAISE

NEW RATE

NEW CLASSIFICATION

VACATION REQUEST

Date Vacation Starts

Vacation Ends

Pay For _____ Days Vacation _____ Issue Vacation _____ Check on (Date) _____

Other Information _____

ATTENDANCE RECORD

TOTAL DAYS OUT IN LAST SIX MONTHS _____

NUMBER OF DAYS EXCUSED _____

NUMBER OF DAYS SICK _____

NUMBER OF DAYS UNEXCUSED _____

NUMBER OF DAYS LATE _____

BLOOD LEAD _____

COMMENTS _____

Signature of Supv. Maxie Mc NabbsDate 11-16-92

Approved _____ Title _____

Date _____

Approved _____ Title _____

Date _____

EMPLOYMENT SEPARATION

SUSPENSION

NUMBER OF DAYS _____ DATE SUSPENSION STARTS _____ DATE EMPLOYEE IS TO RETURN _____

REASON _____

TERMINATION

☐ Lay Off ☐ Fired☐ Quit ☐ Death

Effective Date _____ Gave Company _____ Days Notice _____

REASON FOR TERMINATION

EMPLOYMENT RECOMMENDATIONS

Very Good
Average
Below Average
Poor

Attendance

Attitude

Job Knowledge

Quality of Work

Production Rate

Leadership

Decision Making

Getting Along With Fellow Workers

Eligible for Retire This Job?

Yes ☐ No ☐

Other Position with Company

Yes ☐ No ☐

Additional Comments: _____